

REMARKS

Claims 1-13 and 18-22 are pending, and claims 14-17 and 23 are withdrawn. The Examiner's indication that claims 3-8 are allowable is noted with appreciation.

Claims 1, 2, 18 and 19 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. Publ. No. 2002/0048621 to Boyd et al. in view of U.S. Patent Nos. 6,758,130 to Sargent and 6,759,072 to Gutwein. It is respectfully submitted that claims 1, 2, 18 and 19 are not unpatentable over Boyd in view of Sargent and Gutwein.

The Office action, page 3, alleges that Gutwein discloses "a user interface for initiating an operating cycle of a beverage preparation system, the cycle being independent of a beverage type being dispensed by the system." The Office action does not provide any reference to where such a user interface is alleged disclosed in Gutwein. Indeed, Gutwein teaches away from such a user interface.

Gutwein discloses a user interface that requires the user to choose the type of beverage and then relays those commands to the beverage delivery system to initiate a brewing cycle. For instance, Gutwein describes that it is "a general object of the present invention to provide a brewed beverage delivery system which allows a consumer to select from various classifications of beverages...." (Col. 4, ll. 15-19.) This is the opposite of the system of claim 1, which recites that the user interface is for initialing an operating cycle where the cycle is independent of a beverage type being dispensed. Thus, there is no selection of beverage type required by the user to be input into the system.

Furthermore, Gutwein teaches away from the claimed user interface for initialing an operating cycle where the cycle is independent of a beverage type being dispensed, e.g., a beverage cycle where the user does not have to input the type of beverage into the system. Gutwein emphasizes that it "is important to recognize that a key aspect of a preferred embodiment of the present invention allows selection of the preferred beverage type and classification just prior to dispensing; there is no predetermination of characters or strength as is seen with many automated systems." (Col. 11, ll. 49-52.)

Gutwein also discloses that "a customization director displays numerous customization options to Frank such as coffee been [sic] type...The customization director receives Frank's selection and determines the corresponding commands to send to the beverage delivery system." (Col. 27, ll. 38-45.) In another example, Gutwein discloses that "Alice chooses the formulation options and is asked to select the type of bean." (Col. 28, ll. 5-7.) Because the beverage cycle of claim 1 is initiated by the user interface independent of the type of beverage, there is no need for the user to choose and input the beverage type, as in the user interface of Gutwein.

Indeed, claim 1 recites that there is a reader in the machine for automatically interpreting a code written on the cartridge, and processing means for creating a specific brewing cycle based on the code. Thus, there is no need for the user to input the beverage type, as in Gutwein.

Given that Gutwein does not disclosed the claimed user interface, and that it teaches away from such a user interface, it is respectfully submitted that claims 1, 2, 18 and 19 are not unpatentable over the applied references.

Claims 9-13 and 20-22 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Boyd. It is respectfully submitted that claims 9-13 and 20-22 are not anticipated by Boyd.

Boyd does not disclose a memory for storing information about operating characteristics used by the beverage preparation machine to dispense a beverage, as recited in claim 9. That is, Boyd does not disclose a memory for storing information after dispensing a cartridge. Instead, Boyd only discloses a memory or data storage 150 containing information about packets 10 before beverages are dispensed therefrom. (See Boyd, ¶ 33.) Accordingly, Boyd would not be able to achieve the advantages of having the presently-recited memory. Examples of those advantages realizable with the system of claim 9 are discussed in the present application:

The machine 201 may also advantageously comprise a memory in operative communication with the control processor that stores information on the type of beverage dispensed by a user. The operating cycle of the machine 201 may then be adjusted for the next cartridge 1. This is

especially advantageous where two or more beverage cartridges 1 are used sequentially to form a beverage. For example a coffee cartridge may be dispensed followed by a milk cartridge to form a cappuccino beverage. Alternatively a chocolate cartridge could be used followed by a milk cartridge to produce a creamy hot chocolate beverage. By using a memory that stores information on the first beverage dispensed, the manner of dispensing the second cartridge, say a milk cartridge, may be altered to achieve an optimum beverage. In the above example the milk dispensed for hot chocolate may, typically, be diluted less than the milk added to the coffee. In addition, the milk dispensed for chocolate may be dispensed at a slower flow rate to lessen the degree of foaming of the beverage.

(Page 60, line 24- page 61, line 11.) Given that Boyd lacks a disclosure of a memory that stores information about a previously dispensed cartridge, it follows that Boyd will not be able to achieve the same advantages.

For the foregoing reasons, reconsideration of claims 1, 2 and 9-13 and allowance of claims 1-13 and 18-23 are respectfully requested.

The Commissioner is hereby authorized to charge any additional fees which may be required in this application to Deposit Account No. 06-1135.

Respectfully submitted,

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